

FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

**Aug 30, 2021**

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOSE MENDOZA-RUELAS (1),  
OSCAR CHAVEZ-GARCIA (2);  
and JOEL CHAVEZ-DURAN (3),

Defendants.

NO: 4:21-CR-6028-RMP

PRETRIAL ORDER AND ORDER  
MEMORIALIZING COURT'S ORAL  
RULINGS

A status hearing was held in this matter on August 27, 2021. Defendants Jose Mendoza-Ruelas, Oscar Chavez-Garcia, and Joel Chavez-Duran were not present but were represented by Assistant Federal Defender Alex B. Hernandez, Roger J. Peven, and Criminal Justice Act Attorney Adam R. Pechtel, respectively. Assistant United States Attorney Stephanie A. Van Marter was present on behalf of the Government. The Court has reviewed the file, has heard from counsel, and is fully informed. This Order is entered to memorialize the oral rulings of the Court.

Before the Court is Defendant Chavez-Garcia's Motion to Continue Trial, ECF No. 52, and Defendant Mendoza-Ruelas's Notice of Joinder, ECF No. 55.

PRETRIAL ORDER AND ORDER MEMORIALIZING COURT'S ORAL  
RULINGS ~ 1

1 Defendants move for a continuance to allow additional time to investigate this case.  
2 The Government does not object to a continuance in this matter. *Id.*

3 A trial date of September 27, 2021, would deprive defense counsel of  
4 adequate time to obtain and review discovery and provide effective preparation,  
5 taking into account the exercise of due diligence. 18 U.S.C. § 3161(h)(7).  
6 Therefore, the Court finds that the ends of justice served by ordering a continuance  
7 of proceedings in this matter outweigh the best interests of the public and  
8 Defendants' rights to a speedy trial, pursuant to 18 U.S.C. §3161(h)(7)(A).

9 Accordingly, **IT IS HEREBY ORDERED:**

10 **1.** Defendant Chavez-Garcia's Motion to Continue Trial, **ECF No. 52**, is  
11 **GRANTED** and is applicable to all Defendants.

12 **2.** The current trial date of September 27, 2021, is **STRICKEN** and  
13 **RESET** to **November 8, 2021**, at **8:45 a.m.** commencing with a **final** pretrial  
14 conference at **8:30 a.m.** All hearings shall take place in **Richland**, Washington.

15 **3.** The current pretrial conference date of September 17, 2021, is  
16 **STRICKEN** and **tentatively RESET** as an **in-person** hearing on **October 19, 2021**,  
17 at **9:00 a.m.** in **Richland courtroom 189**. This hearing may be conducted via video  
18 conference hearing, in which case counsel will receive connection instructions from  
19 the Court prior to the hearing.

20 **4.** The September 17, 2021, hearing date for Defendant Chavez-Duran's  
21 Motion to Suppress Evidence, **ECF No. 51**, is **STRICKEN** and **RESET** to be heard

1 at the pretrial conference on **October 19, 2021**, at **9:00 a.m.** Counsel anticipating  
2 witness testimony shall file a witness list with corresponding estimates of length of  
3 testimony by **October 12, 2021**.

4 **5.** Counsel for defense shall notify Defendants of all hearings and ensure  
5 their attendance at court.

6 **6.** Motions to Expedite, if any, shall be filed separately and noted for  
7 hearing two (2) days from the date of filing, after informing opposing counsel of  
8 such.

9 **7.** Discovery motions, pretrial motions, and motions in limine shall be filed  
10 on or before **September 28, 2021**; responses are due **October 5, 2021**; and replies  
11 are due **October 12, 2021**. Counsel shall note their motions for hearing at the  
12 pretrial conference on **October 19, 2021**.

13 **8.** Any motion filed by any defendant in this matter, which is not limited by  
14 its subject matter to the defendant filing the motion, shall also be considered to be a  
15 motion filed on behalf of the co-defendants. If a co-defendant does not wish to join  
16 a particular motion, he or she shall file a notice to the effect and “opt out” of the  
17 filed motion. This will avoid the necessity of each defendant filing duplicate  
18 motions.

19 **9.** Trial briefs, requested voir dire, witness lists, jointly proposed jury  
20 instructions, and a table of proposed jury instructions shall be filed and served by  
21 **October 29, 2021**, for the Court’s consideration.

(a) The jointly proposed jury instructions should address only issues that are unique to this case and shall include instructions regarding the elements of each count, any necessary definitions, and a proposed verdict form.

(b) The parties shall provide the Court electronically with a table of proposed, cited jury instructions. This table shall include:

(i) The instructions on which the parties agree;

(ii) The instructions that are disputed; and

(iii) The basis of any objection.

(iv) The jury instruction table shall be substantially in the following form:

Proposed by	Instruction #	9th Cir. Cite	Objection	Response to objection
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(c) In addition to the jury instruction table, each party shall address any objections they have to instructions proposed by any other party in a memorandum on or before **October 29, 2021**. The parties shall identify the specific portion of any proposed instruction to which they object supported by legal authority that supports the objection. Failure to file an objection to any instruction may be construed as consent to the adoption of an instruction proposed by another party.

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1           **11. Trial Procedures**

2           The following procedures shall be utilized at trial:

3           **(a)** The Court utilizes JERS (Jury Evidence Recording System) to allow  
4           evidence admitted for a trial to be viewed electronically via touchscreen  
5           monitor in the jury deliberation room upon the conclusion of the trial. Please  
6           note that the jury will receive a verbatim copy of the JERS exhibit list. Please  
7           carefully review and follow the instructions provided.

8           [JERS Instruction Sheet for Attorneys](#)

9           **(b)** The Court will conduct the majority of jury voir dire but allow counsel  
10          15 minutes to ask additional questions or to do more in depth exploration of  
11          issues raised by the Court;

12          **(c)** A total of 13 jurors will be selected. Plaintiff shall have 6 peremptory  
13          challenges, Defendants shall have 10 peremptory challenges, and each side  
14          shall have one challenge for the alternate juror. Fed. R. Crim. P. 24. The  
15          challenges shall be exercised alternately;

16          **(d)** Regular trial hours shall be from 8:45 a.m. to 12:00 noon, and 1:15 to  
17          4:30 p.m.;

18          **(e)** The jurors will be provided with notebooks for note-taking and a copy of  
19          preliminary instructions;

1 (f) Documents published to the jury by counsel shall be collected at the  
2 conclusion of trial each day or following a witness's testimony regarding the  
3 published document;

4 (g) A single photograph shall be taken of all witnesses following their  
5 testimony for use by the jury to correlate a witness with the testimony he or  
6 she provided. The photographs shall be maintained in a three-ring binder by  
7 the Court. The photograph will have the witness's name on it and the date of  
8 the witness's testimony. The photographs will be provided to the jury to assist  
9 them during deliberations. Following deliberations, the photographs will be  
10 destroyed by the Court and will not be a part of the record;

11 (h) Examination of witnesses shall be limited to direct, cross, redirect and  
12 recross. Fed. R. Evid. 611(a);

13 (i) Counsel are encouraged to limit requests for sidebars by anticipating  
14 legal and evidentiary issues so that the issues may be addressed before trial  
15 begins each day, during the lunch hour, or after trial hours;

16 (j) During trial, counsel are encouraged to exchange lists of the next day's  
17 witnesses and exhibits so that objections or legal issues may be anticipated  
18 and resolved outside the normal trial hours;

19 (k) Counsel shall have the next witness to be called to testify available  
20 outside the courtroom, to avoid delay; and  
21

1           **(l)** An attorney's room for Plaintiff and for Defendant is available. Counsel  
2           may inquire with the on-duty Court Security Officer for access to the rooms.

3           **12.** Any Defendant represented by CJA appointed counsel that will request  
4           issuance of subpoenas and payment of costs and fees for trial witnesses will file such  
5           requests no later than ten (10) days before trial, excluding weekends and holidays.  
6           Defense counsel may request, as needed, that the motion and order be filed under  
7           seal. Defense counsel shall prepare a proposed order that includes the following  
8           language:

9           **(a)** That the United States Marshal shall serve the subpoenas on the  
10           witnesses identified by name, address, and phone number. The subpoenas  
11           shall state when the witnesses' appearances are requested;

12           **(b)** That the subpoenaed individual shall contact the United States Marshal  
13           in the district in which they are served so that the Marshal may make travel  
14           arrangements, for those witnesses requiring such arrangements; and

15           **(c)** That any witness fees and per diem allowances shall be paid by the  
16           Government after the witness has testified. Requests for advance payment  
17           shall be directed to the United States Marshal in the district in which the  
18           witness is served or the United States Marshal in the district in which the  
19           witness is present to provide testimony.  
20  
21



1 Defense counsel shall contact the Case Administrator in the District Court  
2 Clerk's office, **(509) 943-8170** to obtain information on how to make lodging  
3 arrangements for those witnesses requiring lodging.

4 **13.** Counsel is on notice that no CJA money is available to pay per diem  
5 expenses for indigent defendants. Should an indigent defendant require  
6 transportation to trial and/or housing and meals during the trial, defense counsel  
7 shall apply for such travel and costs no later than ten (10) days, excluding weekends  
8 and holidays, prior to the date of the trial.

9 **14.** A Waiver of Speedy Trial Rights was signed by Defendant Mendoza-  
10 Ruelas and Defendant Chavez-Garcia. ECF Nos. 53, 56. All time from the current  
11 trial date of **September 27, 2021**, to the new trial date of **November 8, 2021**, is  
12 **EXCLUDED** for speedy trial calculations pursuant to 18 U.S.C. § 3161(h)(7).

13 **15.** All time from the filing of Defendant's Motion to Continue on **August**  
14 **20, 2021**, to the date of the hearing on **August 27, 2021**, is excluded for speedy trial  
15 calculations pursuant to 18 U.S.C. § 3161(h)(1)(D).

16 **IT IS SO ORDERED.** The District Court Clerk is directed to file this Order  
17 and provide copies to counsel.

18 **DATED** August 30, 2021.

19 s/ Rosanna Malouf Peterson  
20 ROSANNA MALOUF PETERSON  
21 United States District Judge